

III.

Parties

3.1 Plaintiff is a resident of Arlington, Texas. Plaintiff is a “consumer” as defined by Section 1681a(c) of the FCRA.

3.2 RCI is a legal entity, doing business in the State of Texas. RCI is a “furnisher” of consumer credit information as that term is used in Section 1681s-2(a) and (b) of the FCRA. RCI may be served through its Registered Agent, Jorge Baldor, located at 4230 Lyndon B Johnson Fwy., Ste. 407, Dallas, Texas 75244-5882.

IV.

Factual Allegations

4.1 On or about September 17, 2010, Defendant received a final billing statement in the amount of \$51.10, wherein Plaintiff offered to pay. See Final Billing Statement, attached hereto as Exhibit “A”.

4.2 On or about September 18, 2010, Plaintiff confirmed that the final billing statement had been received by Defendant. And more specifically, to Mariana Gollaher that worked in the capacity as the Collection Coordinator. See Creditor Emails, attached hereto as Exhibit “B”.

4.3 Between October 2010 and April 2013, Plaintiff contacted Defendant in regard to final billing statement. See Certified Letters and Telecopy, attached hereto as Exhibit “C”.

4.4 Defendant reported and also verified unjustifiable debt of \$625.00 to the credit reporting agencies during the aforementioned time period¹. See Investigation Results, attached hereto as Exhibit "D".

4.5 Plaintiff made several demands upon Defendant to remove the alleged credit delinquency from their reports to the credit reporting agencies. However, Defendant refused.

4.6 As a result of Defendant's refusal to remove this alleged credit delinquency, Plaintiff has suffered significant damages, including, but not limited to, the inability to lease another apartment.

**V.
Causes of Actions**

**Count One
Violation of the Fair Credit Reporting Act
15 U.S.C.s-2(b)(1)**

5.1 Plaintiff hereby incorporates by reference all allegations contained in the preceding paragraphs.

5.2 Defendant is a "furnisher" as the term is used Section 1681s-2 of the FCRA.

5.3 Section 1681n of the FCRA imposes civil liability on any furnisher "who fails to comply with any requirement" of the Act. See U.S.C. § 1681n(a).

5.4 Furnishers of credit information have a duty under the FCRA to investigate disputes from consumers as to the accuracy of information reported about them, to wit:

¹ Plaintiff only became aware of the amount after checking credit files online.

After receiving notice pursuant to section 611(a)(2) [§ 1681i] of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall:

- (A) conduct an investigation with respect to the disputed information;
- (B) review all relevant information provided by the consumer reporting agency pursuant to section 611(a)(2) [§ 1681i];
- (C) report the results of the investigation to the consumer reporting agency;
- (D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis; and
- (E) if an item of information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation under paragraph (1), for purposes of reporting to a consumer reporting agency only, as appropriate, based on the results of the reinvestigation promptly –
 - (i) modify that item of information;
 - (ii) delete that item of information; or
 - (iii) permanently block the reporting of that item of information.

See 15 U.S.C. § 1681s-2(b)(1).

5.5 At the time Defendant reported the alleged credit delinquency, Defendant knew Plaintiff did not owe \$625.00.

5.6 Plaintiff contacted Defendant to dispute the alleged credit delinquency, thereby providing the requisite notice to Defendant, under Section 1681i(a)(2) of the FCRA.

5.7 Defendant failed to conduct a reasonable investigation into the accuracy of the information related to alleged credit delinquency, in violation of Section 1681s-2(b)(1) of the FCRA.

5.8 Notwithstanding Defendant's actual knowledge that Plaintiff did not owe \$625.00, Defendant's failure to conduct a reasonable investigation of the accuracy of its reporting of this adverse information shows a reckless disregard for Plaintiff's rights under the FCRA.

5.9 In addition to the violation as described above, Defendant failed to satisfy its duty, under Section 1681s-2(b) to update incomplete or inaccurate information it had previously reported to the credit reporting agencies upon receiving notice that Plaintiff disputed the accuracy of the alleged credit delinquency.

5.10 Defendant's failure to report that Plaintiff disputed the accuracy of the alleged credit delinquency was a failure to accurately update the information because it was "misleading in such way and to such an extent that it [could] be expected to have an adverse effect" on Plaintiff. *Gorman v. Wolpoff & Abramson, LLP et. al*, 584 F.3d 1147 (9th Cir.2009); *See also Saunders v. Branch Banking & Trust Co. of Va.*, 526 F.3d 142 (4th Cir.2008).

5.11 As a direct and proximate result of Defendant's willful and/or negligent refusal to comply with the FCRA as outlined above, Plaintiff has suffered substantial loss and damage including, but not limited to: economic loss due to denial of leasing opportunities, loss of opportunity to obtain credit, damage to reputation, expenditure of considerable time and out-of-pocket expenses, worry, fear, distress, frustration and embarrassment, entitling him to an award of actual damages in amounts to be proved at trial, plus attorneys' fees together with the costs of this action pursuant to 15 U.S.C. § 1681o.

5.12 Defendant's complete and utter indifference as to their obligations under the FCRA reveals a conscious disregard of the rights of Plaintiff, and the injuries suffered by Plaintiff are attended by circumstances of fraud, malice, and willful and wanton misconduct,

calling for an assessment of punitive damages against Defendants, pursuant to 15 U.S.C. § 1681n(a)(2).

**VI.
Jury Demand**

6.1 Plaintiff respectfully demands a trial by jury on all issues so triable in this lawsuit.

**VII.
Prayer for Relief**

WHEREFORE, Plaintiff, Thomas S. Childs, respectfully prays this Court for the following relief:

- (A) Actual damages in an amount to be proved at trial;
- (B) Punitive damages as provided for by 15 U.S.C. § 1681n(2);
- (C) Statutory damages as provided for by 15 U.S.C. § 1681n(2);
- (D) Costs and attorneys' fees as provided for by 15 U.S.C. § 1681n(3) and 15 U.S.C. § 1681o(2); and
- (E) Such other and further relief as this Court deems just and proper.

Respectfully submitted,

By: _____



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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 CHILDS, THOMAS S.

DEFENDANTS
 RESIDENT CHECK, INC d/b/a RESIDENT CHECK

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant DALLAS

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

 JESSICA DAVIS, GENERAL COUNSEL
 4230 Lyndon B Johnson Freeway, Dallas, TX 75244
 (d) 972-419-0191, (f) 972-386-2302

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FOREFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1681p and 28 U.S.C. § 1331

Brief description of cause:

Violation of the Fair Credit Reporting Act ("FCRA").

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

 DEMAND \$
 72,000.00

CHECK YES only if demanded in complaint:

 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED PENDING OR CLOSED CASE(S)

IF ANY

(See instructions):

JUDGE JOHN COUGHENOUR

DOCKET NUMBER C08-0817-JCC

DATE

3/31/15

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE/USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____